

REMARKS

By the above actions, the specification and claims 1, 3-6, 10, 15, 18, 21-24, 28, 31, 32, 34, and 35 have been amended, and claim 2, the subject matter of which has been incorporated into claim 1, has been canceled. In view of these actions and the following remarks, reconsideration of this application is now requested.

Before proceeding further, the Examiner's indication of allowable subject matter with respect to claims 5-7, 12, 18-20, and 24 has been noted with appreciation. However, while claim 18 has been rewritten in allowable independent form, since amended claim 1 is also believed to be allowable, no action is being taken at this time to place claims 5-7 & 12 in independent form.

The specification was objected to due to a lack of antecedent basis for the language of claim 2. While support for this language is believed to be present in the drawings and original specification, a clearer antecedent basis has been provided by the above amendments. Therefore, the objection to the specification should now be withdrawn.

Claims 1-7, 12, 13, 15-24 & 31-35 have been rejected under 35 U.S.C. § 112 as being indefinite. The areas of indefiniteness relating to use of the term "adapted to" have been corrected in the manner suggested by the Examiner even though MPEP § 2173.05(g) points out that "limitations such as 'members *adapted to* be positioned' serve to precisely define present structural attributes of interrelated component parts of the claimed assembly" (emphasis added) citing the case of *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976). With regard to the "at the time" limitation, it is pointed out that the language at issue relates to changes occurring during movement of the recited parts and the fact that the position one element at a given point in time is governed by the position another element at that point in time, so that the "at a time" language should be viewed in that context as appropriate; however, given the Examiner's objection to such language, it has been changed to refer to the "then current position" of the parts, again, keeping in mind that it is the instantaneous positions of parts which are moving that are being described. With regard to claim 2, in the form incorporated into independent claims 1 & 32, this language has been modified to address the Examiner's concern without changing the scope thereof.

As for claim 5, the language found indefinite by the Examiner has been clarified; however, the term "drive element" is not incorrect as thought by the Examiner. That is, as can be seen most easily with reference to Figs. 2 & 3, the second guide point 223 and the driver 224 move perpendicular to the line of motion 219 of the carrier 225 while the movement of the drive element 220 relative to the carrier 225 is parallel to the line of motion. As such, the second guide point 223 is located along a path of motion which extends perpendicular to the motion of the drive element, not the driver. *N. Gower*

Likewise, claims 18, 22, & 24 do not depend from claim 5 nor is it desired for them to relate to the subject matter of claim 5. Thus, the use of "a" guide point instead of "the second" guide point is submitted to be appropriate, e.g., claim 18 describing a situation such as is shown in Fig. 1 where the driver 6 is located between the drive element 5 and the guide point 7. As for the other informalities, they have been corrected in manners that should be readily apparent and thus are not commented upon.

In view of the foregoing, withdrawal the § 112 rejection is in order and is requested.

Claims 1-20 and 22-39 stand rejected under 35 U.S.C. § 102 as being anticipated by the disclosure of any one of the Smith, Thijssen et al., or Sanders et al. patents. This rejection is considered inappropriate for the following reasons.

Firstly, it is noted that the Examiner's rejection does not specifically address the subject matter of prior claim 2, which is now present in both independent claims. It is submitted that this feature, in the overall claimed context, is not taught by any of the applied references. Furthermore, other characteristics of the claimed invention are lacking as well.

With regard to the Smith '644 patent, unlike the present invention in which the drive element, e.g., 5, engages the intermediate pivot lever, e.g., 12, 112, the drive element of Smith '644 (cable 13) does not engage his intermediate lever (bar 12) and the bars 12 merely form a four-bar mechanism for supporting the carrier plate 11, and do not apply any drive force, not being connected to either the carrier 14 or the pin 16 by which the drive element 13 acts on the slotted plate 11 which the Examiner has designated as the claimed carrier. In contrast, applicant's driver 6, drive element 5, carrier 11, and intermediate lever 12 all act in concert to produce claimed coordinated motion. No such interrelationship exists in the Smith '644 patent.

As for the Smith '644 patent, while possess basic characteristics of the present invention, it the driver (pivot pin 12) has a pivot axis which is fixed to the carrier element (control beam 4), and contrary to the present invention, is not movably guided in the direction perpendicular to the direction of motion of the drive element relative to the carrier element. Also, instead of a movably guided pivot pin, the lever 10 is formed of two lever parts 10', 10'' that are freely slidable with respect to each other in the longitudinal direction. With such an arrangement, if pivot pin 12 were movably guided, the mechanism would not work. The Smith '162 patent is the same as the Smith '644 and the same comments apply.

The Thijssen et al. and Sanders et al. patents have not been specifically commented upon by the Examiner and it is not clear which elements of these patents he equates with the recited elements of the claimed invention. However, with regard to Thijssen et al., the slider 12 appears to be the counterpart of applicant's carrier, however the connection of arm 17 and leg 22 to the slider 12 is by way of pivots 18, 23, respectively, that are positionally fixed relative to the slider. Thus, it is not seen how this arrangement can anticipate the present invention in which the pivot position of the intermediate lever is variable relative to the carrier. The Sanders et al. arrangement is basically the same as that of Thijssen and the same comments thus apply.

Claims 1-4, 15-17, 21-23, 32, 33, & 35 have been rejected under 35 U.S.C. § 102 as being anticipated by the Ingildsen et al. patent. This rejection should be withdrawn for the following reasons.

The Ingildsen et al. patent has the driver (pin 40) movably guided relative to the carrier element (lever 19, frame 24) in a direction (guide path 41) along the carrier element but not in the direction perpendicular to the direction of motion of the drive element (power element 30 with connecting rod 34). Thus, this patent also is not anticipative of the present invention and the rejection based thereon should be removed.

Claims 1-4, 15-17, 21-23, 32, 33, & 35 have been rejected under 35 U.S.C. § 103 as being unpatentable over the Sasaki patent when viewed in combination with the Ingildsen et al. patent. However, applying the Ingildsen et al. drive arrangement to the Sasaki roof could not yield the present invention since, as noted above, Ingildsen et al. does not move their driver perpendicular to the direction of motion of the drive element. As such, the rejection

based on this combination of references should be withdrawn and such action is now requested.

Claim 34 was rejected under 35 U.S.C. § 103 as being unpatentable over the Sasaki patent when viewed in combination with the Ingildsen et al. and Bayer et al. references.

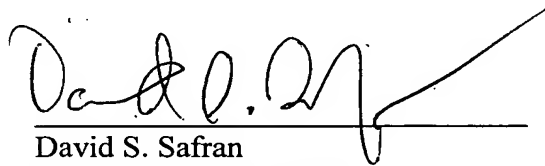
However, even if the roof cassette of Bayer et al. were applied to the Sasaki roof as modified in view of Ingildsen et al., the shortcomings of the combination of Sasaki and Ingildsen et al. would still remain. Therefore, this rejection should be withdrawn for the reasons stated above.

The prior art that has been cited, but not applied by the Examiner has been taken into consideration during formulation of this response. However, since this art was not considered by the Examiner to be of sufficient relevance to applying against any of the claims, no detailed comments thereon is believed to be warranted at this time.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with applicants' representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Lastly, it is noted that a separate Extension of Time Petition accompanies this response along with a check in payment of the requisite extension of time fee. However, should that petition become separated from this Amendment, then this Amendment should be construed as containing such a petition. Likewise, any overage or shortage in the required payment should be applied to Deposit Account No. 19-2380 (740123-419).

Respectfully submitted,

  
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